

REMARKS

Claims 1, 2, 4-17, 19-23, and 26-30 have been rejected by the Examiner in the above-cited office action. Claims 1, 16, 22, 26, 27 and 28 are amended in this paper. Claim 19 is canceled in this paper, without prejudice. Claims 3, 18 and 24-25 have been previously canceled. Thus, claims 1, 2, 4-17, 20-23, and 26-30 are presented for examination. No new matter has been introduced. Reconsideration of the application is respectfully requested.

Claim 27 has been amended to correct a typographical error.

Claim Rejections under 35 U.S.C. § 103

1. In “Claim Rejections – 35 U.S.C. § 103”, on pages 2-11 of the above-cited Office Action, the Examiner rejected claims 1, 2, 4-17, 19-20, 22-23, 26-28 and 30 as being unpatentable over U.S. Patent 7,305,626 to Tiku (hereinafter “Tiku”) in view of U.S. Patent Publication 2003/0186722 to Weiner (hereinafter “Weiner”) under 35 U.S.C. § 103(a). Applicants respectfully traverse these rejections.

Notwithstanding that Applicants respectfully disagree with the above reading by the Examiner, in order to obtain early allowance of claims 1, 2, 4-17, 19-20, 22-23, 26-28 and 30, and to further clarify the claimed subject matter, independent claims 1, 16, 22 and 28 have been amended to at least partially incorporate elements of original claim 19.

Independent claim 1 has been amended to read:

“...receiving, by the client device, a first reply from the content provider responsive to the first requesting, the first reply including a query for a dynamic characteristic of the client device, the dynamic characteristic being a real-time attribute which changes while the client device is operating;” (Applicants’ amended claim 1)

The Examiner cited Tiku as reading on Applicants’, “first requesting, by the client device, a first content from a content provider, including providing a characteristic profile to the content provider, the characteristic profile including one or more characteristics of the client device...” (Applicants’ claim 1) The Examiner conceded that Tiku fails to teach the other elements of claim 1, and thus cited Weiner to cure the deficiencies of Tiku.

Both Tiku and Weiner are concerned with retrieving static profiles for client devices to whom content is to be delivered, that is both teach the retrieval or replacement of UAProf or

CC/PP profiles. The very term “profile”, as understood by those of ordinary skill in the art at the time of Applicant’s invention, and used throughout Tiku and Weiner, refers to a set of static information about the client device. Neither Tiku, nor Weiner teach query for, nor query result including, a dynamic characteristic of the client device which changes during the operation of the device as recited by amended claim 1.

Tiku essentially teaches filtering of UAProf or CC/PP profiles. At the time of Applicants’ invention, one could not store dynamic client characteristics, that is characteristics that change while the client device is operating as recited by amended claim 1, in a UAProf profile. These characteristics are not discoverable by CC/PP and through repositories of UAProf profiles. Instead, at the time of Applicants’ invention, content providers were required to receive or to retrieve static profiles from repositories, as is indeed taught by Tiku.

Weiner essentially teaches a scheme for creating profiles of static characteristics on the fly. Weiner’s device is dependent on:

“...using SIM toolkit commands in accordance with the GSM 11.14 standard...

The toolkit commands enable microprocessor (85) to determine many details with respect to the handset (30), e.g., *[the handset’s original]* display size and resolution, handset type, *[the handset’s original]* operating language...” (Weiner, Paragraph [0026], text in italics has been added)

SIM toolkit commands are not suited to the retrieval of dynamic characteristics of a device.

Further, Weiner teaches that his device is for the purpose of replacing UAProf storage in a handset:

“Employing a system and device in accordance with the invention saves valuable time and eliminates the dependency on handset manufacturers to include the UAPROF into their handsets...” (Weiner, Paragraph [0020])

Thus, Weiner also teaches the retrieval of static UAProf profile information.

The method of claim 1 recites that content is provided to the client device determined by dynamic characteristic(s) of the client device, after the client device has provided a characteristic profile and after the client device, upon request by the content provider, has provided the further dynamic characteristic.

Additionally, it is clear from the recitations of amended claim 1 that the dynamic characteristic is in addition to a static profile provided by the client device and, therefore, not taught, nor suggested by Tiku, nor Weiner.

Further, Tiku teaches a method of pushing a profile to the server and Weiner teaches a method of pulling a profile from the client that a person of ordinary skill in the art at the time of Applicants' invention would not have combined. In the passage of Tiku cited by the Examiner, Tiku states:

“FIG. 2 shows the context for a scenario in which a WAP client device 20 provides CPI to an origin server 22...” (Emphasis added Tiku, Column 3, lines 58-59)

This is a push operation initiating from the client device to the server device.

Weiner teaches:

“The invention utilizes a real-time query to the receiving device initiated by a server within the cellular network.” (Emphasis added, Weiner, Paragraph 20); and “Furthermore, if the handset (30) does not have an ISC (80) installed, the server (210) will not get a reply and, thus, will treat the handset as unknown.” (Emphasis added, Weiner, Paragraph 37)

This is obviously a pull operation initiating from the server to a client device (that may or may not even be responsive). A combination of a push and a pull method are diametrically opposed. It would not have been obvious to a person of ordinary skill at the time of Applicants' invention to combine these operations into a single method, and neither Tiku, nor Weiner have any teaching or suggestion of such an unlikely combination.

Accordingly, Applicants submit that the combination of Tiku and Weiner fails to establish a prima facie case of obviousness for amended claim 1, and amended claim 1 is therefore patentable over Tiku in view of Wiener under 35 USC §103(a). Reconsideration in the light of amendments is respectfully requested.

Amended independent claims 16, 22, 26 and 28 contain generally similar recitations as claim 1. Therefore, for at least similar reasons set forth for claim 1, Applicants submit claims 16, 22, 26 and 28 are also patentable over Tiku in view of Wiener under 35 USC §103 (a). Reconsideration in the light of amendments is respectfully requested.

Claims 2, 4-15, 17, 20-21, 23, 27, 29 and 30 depend from amended claims 1, 16, 22, 26 or 28, incorporating their recitations. Therefore, for at least similar reasons set forth for the corresponding independent claims, Applicants submit that claims 2, 4-15, 17, 20-21, 23, 27, 29 and 30 are also patentable over Tiku in view of Wiener under 35 USC §103 (a), and reconsideration in the light of amendments is respectfully requested.

2. In “Claim Rejections – 35 USC § 103”, on page 11 of the above-cited Office Action, claims 21 and 29 have been rejected as being unpatentable over Tiku in view of Weiner, and further in view of U.S. Patent No. 6,978,373 to Hild et al. (hereinafter “Hild”) under 35 U.S.C. § 103(a).

Hild, does not teach or suggest the combination of elements of amended claims 16 and 28, as discussed above. Hild, therefore, does not cure the deficiencies of Tiku and Weiner as discussed above, and, therefore, claims 16 and 28 remain patentable over Tiku, Weiner and Hild, alone or in combination, for at least the reasons given above. Claims 21 and 29 depend from claims 16 and 28, incorporating their limitations. Accordingly, claims 21 and 29 are patentable over Tiku, Weiner and Hild, alone or in combination, under §103(a).

CONCLUSION

In view of the foregoing, reconsideration and allowance of pending claims are solicited. If the Examiner has any questions concerning the present paper, the Examiner is kindly requested to contact the undersigned at (206) 381-8819. If any fees are due in connection with filing this paper, the Commissioner is authorized to charge the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 500393.

Respectfully submitted,

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